

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DORIAN WALKER, #959129,

Petitioner,

v.

CASE NO. 2:18-CV-11141
HONORABLE DENISE PAGE HOOD

THOMAS WINN,

Respondent.

ORDER DENYING MOTION FOR PRODUCTION OF POLICE FILE

Michigan prisoner Dorian Walker (“Petitioner”) has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his state criminal proceedings. This matter is before the Court on Petitioner’s motion for production of the entire Detroit Police Department homicide file concerning his criminal case.

Under the Rules Governing Section 2254 Cases, Respondent is required to submit all transcripts and documents relevant to the determination of the habeas petition when the answer is filed. Rule 5, 28 U.S.C. foll. § 2254. The Court may require that the record be expanded to include additional relevant materials. Rule 7, 28 U.S.C. foll. § 2254. The Court may also determine whether an evidentiary hearing is required after the answer and the state court record are filed. Rule 8, 28 U.S.C. foll. § 2254. Respondent has not yet filed an answer to the petition or the state court

record. Until those materials are filed, this Court need not require that additional information be submitted for review. Petitioner's request for discovery is premature.

"[A] habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of ordinary course." *Bracy v. Gramley*, 520 U.S. 899, 904 (1997). A federal habeas court may authorize a party to conduct discovery upon a showing of good cause. Rule 6(a), 28 U.S.C. foll. § 2254. Petitioner has not shown that the information he seeks is necessary for the disposition of this case. He has filed pleadings in support of his claims. The United States Supreme Court has made clear that federal habeas review under 28 U.S.C. §2254(d) is "limited to the record that was before the state court that adjudicated the claim on the merits." *Cullen v. Pinholster*, _ U.S. _, 131 S. Ct. 1388, 1398 (2011). Petitioner is precluded from injecting information that was not presented to the state courts into the present proceeding. Accordingly, the Court **DENIES** Petitioner's motion (Nos. 8, 9) without prejudice. Should the Court determine, upon further review, that additional materials are needed, it will enter an appropriate order.

IT IS SO ORDERED.

S/Denise Page Hood

Denise Page Hood

Chief Judge, United States District Court

Dated: December 11, 2018

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 11, 2018, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager